

Christine C. Capuyan (SBN 281036)
christine.capuyan@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP
950 Page Mill Road
Palo Alto, CA 94304
Telephone: (650) 858-6000
Facsimile: (650) 858-6100

Joseph J. Mueller (*pro hac vice*)
joseph.mueller@wilmerhale.com
Sarah B. Petty (*pro hac vice*)
sarah.petty@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109
Telephone: (617) 526-6000
Facsimile: (617) 526-5000

Nina S. Tallon (*pro hac vice*)
nina.tallon@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006
Telephone: (202) 663-6000
Facsimile: (202) 663-6363

*Attorneys for Defendant and
Counterclaim-Plaintiff McAfee, Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

TVIIM, LLC,

Plaintiff,

v.

MCAFEE, INC.,

Defendant.

Civil Action No. 3:13-CV-04545-HSG

**AMENDED DECLARATION OF
LAURIE CHARRINGTON IN
SUPPORT OF MCAFEE'S
ADMINISTRATIVE MOTION TO
FILE UNDER SEAL (MCAFEE'S
OPPOSITION TO TVIIM'S MOTION
TO EXCLUDE CERTAIN EXPERT
TESTIMONY OF LANCE
GUNDERSON)**

1 I, Laurie Charrington, declare and state as follows:

2 1. I am an attorney at Intel Corporation (“Intel”). My title is Senior Litigation
3 Counsel, Law and Policy Group.

4 2. Pursuant to Local Rules 7-11 and 79-5, I submit this Declaration in support of
5 McAfee’s Administrative Motion to File Documents under Seal (D.I. 130) and in response to
6 the Court’s Order Denying Motions to Seal (D.I. 171), to confirm that Exhibits 2, 4, 18-19, 22-
7 26, and 30 to the Declaration of Joseph J. Mueller (“Mueller Declaration”) in Support of
8 McAfee’s Opposition to TVIIM, LLC’s Motion to Exclude Certain Expert Testimony of Lance
9 Gunderson (“Opposition”), as well as the corresponding pages of McAfee’s Opposition that
10 disclose information contained in those exhibits, are confidential and sealable. I have personal
11 knowledge of the facts set forth in this Declaration and, if called as a witness, could and would
12 competently testify to them under oath.

13 3. McAfee, Inc. (“McAfee”) is a wholly owned subsidiary of Intel. As part of my
14 role at Intel, I am familiar with McAfee’s efforts to ensure that financial, marketing, and
15 product development, design, and prototype information are not disclosed outside select groups
16 of individuals within McAfee.

17 4. The requested relief is necessarily and narrowly tailored to protect the
18 confidentiality of the information contained in the following exhibits.

19 5. McAfee will lodge with the court and serve on plaintiff TVIIM, LLC an
20 unredacted copy of the exhibits referenced in this declaration, highlighting in green the specific
21 portions of each page in each exhibit to which McAfee maintains a claim of confidentiality.
22 Should the court grant TVIIM’s Motion to Seal the unredacted copy of these exhibits (Dkt.
23 118), McAfee will publicly file redacted versions of these exhibits.

24 6. **Exhibit 2.** Exhibit 2 to the Mueller Declaration contains excerpts from the
25 February 16, 2015 Expert Report of Lance E. Gunderson, McAfee’s damages expert in this
26 litigation. McAfee designated this report as “CONFIDENTIAL – ATTORNEYS’ EYES

ONLY” under the Protective Order (D.I. 62). Certain portions of pages 11, 32-36, 49-56, 59-62, 65-66, 69-70, 76 of this report discuss or otherwise reference highly confidential McAfee financial information, business and marketing strategies, product development strategies, and product design choices and potential costs. This information could be used by McAfee’s competitors to McAfee’s disadvantage, particularly because it reveals McAfee’s internal financial, product development, and other proprietary information. It is McAfee’s practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

7. **Exhibit 4.** Exhibit 4 to the Mueller Declaration contains excerpts from the January 16, 2015 Expert Report of Dr. Moses Garuba, TVIIM’s infringement expert in this litigation. TVIIM designated this report as “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Protective Order (D.I. 62). These excerpts discuss or otherwise reference highly confidential McAfee product development strategy, design choices, internal release timelines, source code, and other technical documents on certain portions of the following pages: 9, 12, 32, 39. This information could be used by McAfee’s competitors to McAfee’s disadvantage, particularly because it reveals McAfee’s internal product development and other proprietary information. It is McAfee’s practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

8. **Exhibit 18.** Exhibit 18 to the Mueller Declaration contains excerpts from the January 16, 2015 Expert Report of Bruce McFarlane, TVIIM’s damages expert in this litigation. TVIIM designated this report as “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Protective Order (D.I. 62). These excerpts discuss or otherwise reference highly confidential McAfee product development information and design choices on certain portions of the following pages: 62-63. These excerpts also reference the highly confidential internal emails discussed below and attached as Exhibit 26 to the Mueller Declaration. This information could be used by McAfee’s competitors to McAfee’s disadvantage, particularly because it reveals

McAfee's internal product development and other proprietary information. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

9. **Exhibit 19.** Exhibit 19 to the Mueller Declaration contains excerpts from the February 16, 2015 Rebuttal Expert Report of Aviel D. Rubin, Ph.D., McAfee's technical expert in this litigation. McAfee designated this report as "CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY – RESTRICTED" under the Protective Order (D.I. 62). These excerpts discuss or otherwise reference highly confidential McAfee product development and design information—including detailed source code information on certain portions of the following pages: 19-20, 24, 81-82. McAfee provides its source code with the highest level of protection and security within McAfee, and limits access to it to only select groups of authorized employees. McAfee views its source code as highly proprietary, extremely valuable, and one of its most protected assets. McAfee's internal and proprietary product development and design information—especially information contained and reflected in McAfee's highly confidential source code—could be used by McAfee's competitors to McAfee's disadvantage. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

10. **Exhibit 22.** Exhibit 22 to the Mueller Declaration contains excerpts from the transcript of the deposition of Yannick Yu, a software engineering manager at McAfee. McAfee designated the deposition transcript as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Protective Order (D.I. 62). Certain portions of transcript pages 26, 29, 52-53, 134, 172-74, 176-77 discuss or otherwise reference highly confidential McAfee product development information—including draft and interim product design elements and prototype features. These pages also discuss highly confidential McAfee internal documents including the design document and internal emails discussed below and attached as Exhibits 24-25 to the Mueller Declaration. This information could be used by McAfee's competitors to McAfee's

disadvantage, particularly because it reveals McAfee's internal product development and other proprietary information. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

11. **Exhibit 23.** Exhibit 23 to the Mueller Declaration contains excerpts from the transcript of the deposition of Armando Murga, a senior software developer at McAfee. McAfee designated the deposition transcript as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Protective Order (D.I. 62). Certain portions of transcript pages 50-58, 211-12, 215-16, 341 contain highly confidential information reflecting McAfee's product development information—including draft and interim product design elements and source code integration process. These excerpts also reference highly confidential internal documents reflecting McAfee's highly confidential product development information. This information could be used by McAfee's competitors to McAfee's disadvantage, particularly because it reveals McAfee's internal product development and other proprietary information. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

12. **Exhibit 24.** Exhibit 24 to the Mueller Declaration contains McAfee internal emails, which McAfee designated as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Protective Order (D.I. 62). Certain portions of the pages (shown at the bottom left) .001-.002 contain highly confidential and proprietary information reflecting McAfee's product design choices, considerations, and planned improvements. This information could be used by McAfee's competitors to its disadvantage, particularly because it reveals McAfee's internal product development, design, and other proprietary information. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

13. **Exhibit 25.** Exhibit 25 to the Mueller Declaration contains a McAfee internal design document, which McAfee designated as "CONFIDENTIAL – ATTORNEYS' EYES

ONLY” under the Protective Order (D.I. 62). Certain portions of pages (shown at the bottom left) .001-.058 contain highly confidential and proprietary information reflecting McAfee’s interim product design choices, considerations, planned improvements, and internal user-interface design feedback. This information could be used by McAfee’s competitors to its disadvantage, particularly because it reveals McAfee’s internal product development, design, and other proprietary information. It is McAfee’s practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

14. **Exhibit 26.** Exhibit 26 to the Mueller Declaration contains McAfee internal emails, which McAfee designated as “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Protective Order (D.I. 62). Certain portions of the pages Bates-numbered 84918DOC012293-95 contain highly confidential and proprietary information reflecting McAfee’s interim product prototype features, design choices, considerations, planned improvements, and internal design feedback. This information could be used by McAfee’s competitors to its disadvantage, particularly because it reveals McAfee’s internal prototype development, design, and other proprietary information. It is McAfee’s practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

15. **Exhibit 30.** Exhibit 30 to the Mueller Declaration contains a McAfee internal newsletter marked “COMPANY CONFIDENTIAL” and McAfee internal emails, which McAfee designated as “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Certain portions of pages (shown at bottom right) 150-52 contain highly confidential information concerning McAfee’s product development, testing, and feedback. This information could be used by McAfee’s competitors to McAfee’s disadvantage, particularly because it reveals McAfee’s internal product development, testing, and other proprietary information. It is McAfee’s practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

16. McAfee's Opposition discusses highly confidential information from Exhibits 4, 18-19, 22-26, and 30 to the Mueller Declaration, as shown below.¹

Page(s):Line(s) Discussing McAfee's Highly Confidential Information	Highly Confidential Exhibits Cited and Discussed
8:5-7	Exhibits 22-23
8:12-9:8	Exhibits 19, 22, 24-26
12:16-23	Exhibits 4, 18-19
12:25-13:14	Exhibits 23, 30

It is McAfee's practice and policy to maintain the confidentiality of this information. Disclosure of this information would be harmful to McAfee, for the same reasons discussed above.

¹ McAfee has already publicly filed a redacted copy of this Opposition at Dkt. 131, and McAfee has already lodged with the Court and served TVIIM with an unredacted copy of this Opposition, highlighting the specific portions cited in this chart. McAfee accordingly does not intend to lodge with the Court nor serve on TVIIM another unredacted copy of this Opposition.

1 I declare under the penalty of perjury under the laws of the United States of America that
2 the forgoing is true and correct to the best of my knowledge. Executed this 15th of June, 2015 at
3 Santa Clara, California.

4
5
6 Dated: June 15, 2015

By: /s/ Laurie Charrington

7 Laurie Charrington
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

CIVIL LOCAL RULE 5-1(i)(3) ATTESTATION

I hereby attest that concurrence in this filing had been obtained from Laurie Charrington and that records to support this concurrence are on file.

Dated: June 15, 2015

/s/ Christine Capuyan

Christine Capuyan

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the United States that a true and correct copy of the above and foregoing document has been served on June 15, 2015, to all counsel of record who are deemed to have consented to electronic service via the Court's ECF system per Civil Local Rule 5-1.

Dated: June 15, 2015

/s/ Christine Capuyan

Christine Capuyan